

**IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL.**

(Court's order whether the case is or not approved for reporting)

[Chapter VIII Rule 32 (2)(b)]

Description of case.

Writ Petition No. 61/04 (S/S)

Britraj Chawala and others

Versus

State of U.A. and others

Approved for reporting. (Yes)

~~Not approved for reporting.~~

Date of Decision 20.12.2005

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ petition No. 61 of 2004 (SS)

1. Britraj Chawala, S/o Jaichandra,
Presently posted as Assistant Teacher in Primary School, Kuikheri,
Gadarpur, District Udham Singh Nagar.
2. Gulab Singh Sirohi, S/o Ram Singh Sirohi,
presently posted as Assistant Teacher in Primary School, Jay Nagar,
Gadarpur, District Udham Singh Nagar.
3. Narendra Kumar, S/o Krishna Ram,
Presently posted as Assistant Teacher, in Primary School Makarandpur,
Gadarpur, District Udham Singh Nagar.
4. Prakash Chandra S/o Anand Ballabh
Presently posted as Assistant Teacher in Primary school, Guru Khera
Khatima, District Udham Singh Nagar.
5. Sanjeev Kumar Pandey, S/o Nate Ram,
Presently posted as Assistant Teacher in Primary School, Ratanpura,
Gadarpur, District Udham Singh Nagar.
6. Trilok Chandra, S/o Ram Chandra,
Presently posted as Assistant Teacher in Primary School Sri Rampur,
Gadarpur, District Udham Singh Nagar.
7. Umesh Chandra Joshi, S/o Nanda Ballabh Joshi,
Presently posted as Assistant Teacher in Primary School, Sanjay Nagar,
Gadarpur, District Udham Singh Nagar.
8. Virendra Book, S/o Dalip Singh,
Presently posted as Assistant Teacher in Primary School, Arjunpur,
Gadarpur, District Udham Singh Nagar.
9. Ashok Chauhan, S/o Niranjana Singh Chauhan,
Presently posted as Assistant Teacher in Primary School, Dhimari Block,
District Udham Singh Nagar.
10. Shravan Giri, S/o Atma Ram,
Presently posted as Assistant Teacher in Primary School, Rudrapur,
District Udham Singh Nagar.
11. Kailash Giri, S/o Atma Ram
Presently posted as Assistant Teacher in Primary School, Haldi, Rudrapur,
District Udham Singh Nagar.
12. Shubhawati, D/o Mohit Prasad,
Presently posted as Assistant Teacher in Primary School, Adarsh Nagar,
Gadarpur, District Udham Singh Nagar. Petitioners

Versus

1. State of Uttaranchal, through Secretary Basic Education, Govt. of
Uttaranchal, Dehradun.
2. Director of Education (Basic) Uttaranchal, Dehradun.
3. Basic Shiksha Adhikari, District Udham Singh Nagar.

..... Respondents

Sri K.N. Joshi, Advocate for the petitioner
Standing Counsel for the respondents no. 1 & 2
Sri H.M. Raturi, Advocate for respondent no.3.

Dated: 20.12.2005

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petition, the petitioners have prayed for a writ of mandamus directing the respondents to make the payment of salary to the petitioners in the pay scale of 1100-1710 (revised 3600-5500) with admissible allowances.

Briefly stated the facts giving rise to the present writ petition are that the petitioners are the Assistant Teachers posted in various primary schools in District Udham Singh Nagar. The petitioners are holding C.P.Ed. certificate/diploma and they were appointed by the Basic Shiksha Adhikari Udham Singh Nagar on the consolidated salary of Rs. 850/- per month. The petitioners have submitted that pursuant to the letter dated 1.1.1993 issued by the Director of Education Basic Shiksha Parishad, U.P. some other persons were appointed who are being paid regular pay scale of 1100-1710 whereas the petitioners are being paid a consolidated salary of Rs. 850/- per month. The petitioners have claimed regular pay scale from the date of their appointment.

The respondents have filed counter affidavit and have submitted that the petitioners are holding the C.P.Ed. Certificates, obtained by them from the Amrawati, Maharastra, which was not a recognized institution, but in pursuance of the order of Allahabad High Court the petitioners were given appointment on a fixed salary of Rs. 850/- per month. It has also been submitted in the counter affidavit that the persons who have C.P.Ed Certificate from the recognized institutions were being paid regular pay scale. It has been submitted that the

qualification for appointment of Assistant Teachers of Junior Basic Schools is prescribed under Rule 8 of U.P. Basic Education (Teacher) Service Rule 1981. The petitioners were appointed as untrained teachers and till the completion of department B.T.C. training they are not entitled to get already pay scale.

The learned counsel for the petitioners placed reliance on the judgment of Hon'ble Mr. Justice M.M. Ghildiyal in W.P. No. 3615 (SS) of 2001 (Deepak Chandra vs. Basic Siksha Adhikari, Pithoragarh and WP. 1243 (SS) of 2001 Dinesh Singh Rawat and others vs. State of U.P. & others and have submitted that the facts of the present writ petition are squarely covered by the judgment pronounced in the above writ petition.

In the aforesaid writ petitions his Lordship Hon'ble Mr. Justice M.M. Ghildiyal was pleased to pass the following order:

“Since the petitioners were appointed in pursuance to the advertisement issued by the respondents in the year 1993 and some of the persons who were appointed in pursuance to the same advertisement have been paid regular pay scale from their initial appointment, the petitioners are also entitled to get same pay scale.

For the reasons stated above the writ petitions are allowed. The respondents are directed to pay difference of pay to the petitioners within a period of six weeks from the date of production of certified copy of this order. No order as to costs.”

The present writ petition is squarely covered by the judgment of his Lordship Hon'ble Mr. Justice M.M. Ghildiyal in W.P. No. 3615 of 2001 (SS) and W.P. No. 1243 of 2001 (SS) conditions. The respondents are directed to pay the

difference of pay along with consequential benefits to the petitioners within six weeks after the receipt of the certified copy of this order.

The writ petition is accordingly disposed of. There will be no order as to costs.

(Rajesh Tandon, J.)

20.12.2005
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